

Innocence Project

THOMAS M. COOLEY LAW SCHOOL

Date: May 24, 2011
To: Senate Judiciary Committee
From: Marla Mitchell-Cichon and Donna McKneelen, Co-Directors
William Fleener, Staff Attorney
Re: Comments on MCL 770.16's Sunset Provision

MCL 770.16, in its current form, sunsets on January 1, 2012. This means that petitions under Michigan's post-conviction DNA testing law must be filed by the end of this year. SB 361 extends that sunset to 2016, and we ask for your support.

Since Michigan's post conviction DNA testing law's original effective date, January 1, 2001, there has not been a significant number of cases litigated under the statute. The Innocence Project, which pursues the majority of claims under the statute, has filed under 20 petitions since 2001. Any concern for finality is outweighed by a viable claim of innocence. In addition, it only serves the public interest to exonerate the innocent, and, in turn, identify the true perpetrator.

On January 1, 2009, MCL 770.16 was modified to allow requests for DNA testing in cases in which the petitioner was convicted after January 1, 2001. Since this amendment, the demand for case review has increased and the Innocence Project has just begun to review many of these post-2001 cases. In fact, the first couple of cases meeting the post-2001 criteria will soon be filed in court. The Innocence Project has 66 cases waiting to be assigned to a student intern, and 56 of those are convictions after January 1, 2001. The Innocence Project is investigating 73 cases, in addition to those awaiting assignment, and new requests for assistance come in every day. In our experience, locating the biological evidence, especially in older cases, can take considerable time and effort. The Project's current caseload cannot be screened and petitions filed by the impending sunset date; something that SB 361 will help alleviate.

DNA testing technology is rapidly evolving, thus, increasing obtainable DNA testing results in more cases. For example, Y-STR testing has provided DNA testing results where testing using traditional STR methods yielded no or inconclusive results. Other testing, such as "touch DNA" and "low copy DNA" also provide results on poor quality or small samples. These technologies provide results that previously were not obtainable. Because DNA testing technology continues to improve, the sunset provision should be extended on MCL 770.16.

MCL 770.16 should be amended to extend the sunset provision. Currently, only 8 other states (AR, CT, DE, GA, ID, LA, MN, and OH) have sunset provisions. Michigan's post conviction DNA testing law has not placed a burden on Michigan's court system. MCL 770.16 is a needed and effective tool for serving justice and the public interest. Extending the sunset provision will allow these interests to continue to be served. Thank you in advance for your support on SB 361.